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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,990	02/20/2002	Buddy D. Ratner	920010.40001	1736

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EXAMINER
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PADGETT, MARIANNE L

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/081,990

Applicant(s)

RATNER ET AL.

Examiner

Marianne L. Padgett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42-44, 46-48, 51-53, 56-73, 75-81, 84, 86-90 and 93-98 is/are pending in the application.
- 4a) Of the above claim(s) 79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-44, 46-48, 51-53, 56-69, 70-73, 75-81, 84, 86-90 and 93-98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Applicant's amendments have removed most the 112 first rejections, particularly by including the limitations from claim 49 into the independent claims 42, 88, 93 & 95, and have also removed other 112 problems by deletions in claims 93 & 88. The inclusions of the limitations of claim 49 into these independent claims have also removed the art rejections over Andra (5,645,897) & Noda et al (5,374,613).

It is noted the claim 70 is technically informal/noncompliant as this withdrawn claim does not have the proper status identifier indicating that it is withdrawn, i.e. nonelected.

2. Claims 93-94 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As was previously noted, Applicants' citation of p.11, lines 5-8 to support their addition of "intact" as a modifier for molecules for claim 93 was found to be insufficient. Absolutely nothing in the cited statement indicated that the molecules deposited are the one started with in presumably (as it is not specified) the source solution for the deposition. The ionized molecules deposited, may have reacted with each other, and still produced an ionized deposit of molecules, with other ions present. No further explanation of support for this limitation was found in the 1/30/2006 response. The examiner notes that the apparently unsupported claim of "substantially pure" for describing "intact molecules" has been deleted, removing this problem which exasperated the problem, but not solving the original support problem.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 42-43, 46-48, 51-53, 56-56, 67-69, 71-73, 75-81, 84, 86-87 & 93-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galin et al (5,944,753), as discussed in section 12 of the 4/26/04 action and Morozov et al (609) as applied in sections 15 & 10-11 of 42/21/04 & 7/29/2005, respectively.

Is not necessary for Galin et al. to have the features that have been amended into the claim by the combination of the limitations of previous claim 49 with the independent claim, as is the combination over which this overall set of limitations was rejected. Multiple reasons for combining the deposition/delivery process of Morozov et al (609) with Galin et al. have been given and need not be repeated. As for Galin using their taught advantageous plasma pretreatment process, the examiner can think of no reason why they would neglect to use it when combining the process of the secondary

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reference with the primary reference. The process of Galin et al. requires plasma pretreatment, irrespective of the spray technique employed for deposition, hence is highly unlikely that one of ordinary skill in the art would consider leaving out this main part of the primary references process as suggested by applicant, when employing the specific advantageous spray deposition technique of the secondary reference.

5. Claims 42-43, 46-48, 51-53, 56-69, 71-73, 75-81, 84, 86-90 & 93- 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hostettler et al (5,849,368), as discussed in section 13 of 4/26/04, and Morozov et al (609) discussed in sections 15-16 & 10-12 of 12/21/04 & 7/29/2005, respectively.

Arguments concerning applicant's allegations of lack motivation are analogous to those applied above in section 4.

6. Claims 42-44, 46-48, 51-53, 56-69, 71-73, 84, 86-90 & 94-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ragheb et al (5,824,049), in view of Morozov et al (609 B1) as discussed in sections 17 & (10-11 + 13) of the 12/21/04 & 7/29/2005 actions, respectively.

With respect to new dependent claim 98, note plasma polymerization deposition taught in the primary reference, such as in column 4, lines 29-38, and note that in independent claim 42 from which it depends, that for the claims as written it does not matter if the claimed plasma treating is before after deposition of the ionized molecules or if it is actually part of the same step.

Arguments concerning applicant's allegations of lack motivation are analogous to those applied above in section 4.

7. Applicant's arguments filed 1/30/2006 and discussed above have been fully considered but they are not persuasive.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

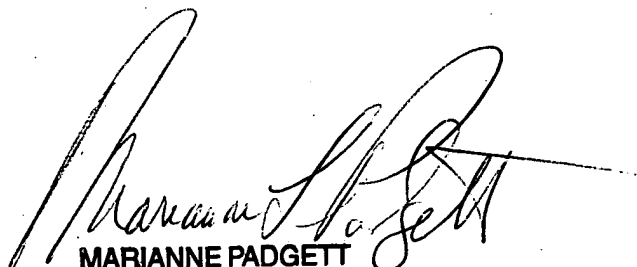
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M L. Padgett whose telephone number is (571) 272-1425. The examiner can normally be reached on Monday-Friday from about 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached at (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLP/dictation software

4/17/2006

  
MARIANNE PADGETT  
PRIMARY EXAMINER